United Nations CED/C/SR.154

International Convention for the Protection of All Persons from Enforced Disappearance

Distr.: General
22 September 2015

Original: English

Committee on Enforced Disappearances
Ninth session

Summary record (partial)* of the 154th meeting**
Held at the Palais des Nations, Geneva, on Thursday, 17 September 2015, at 3 p.m.

Chairperson: Mr. Decaux

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* No summary record was prepared for the rest of the meeting.
** No summary records were issued for the 144th to 153rd meetings.

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The meeting was called to order at 3.10 p.m.

Meeting with States Members of the United Nations

1. **The Chairperson** welcomed the representatives of States Members of the United Nations who were attending the meeting and noted that the Committee was interested in the views of all States, not just those that were party to the Convention. The Committee had held two dialogues with States parties during its ninth session and had adopted three lists of issues in preparation for the consideration of reports of States parties at its tenth session. The Convention had been ratified by 50 States, most recently by Belize, Greece, Mongolia and Ukraine.

2. **Mr. Jordan** (Argentina) said that enforced disappearance was an issue of particular importance for his country, which had been among the first to submit an initial report to the Committee and had worked with France on an international campaign to promote ratification of the Convention. He welcomed the greater geographic diversity brought by the increase in the number of States parties, and he wondered how the Committee envisaged the development of its relationship with the Working Group on Enforced or Involuntary Disappearances, particularly in the light of that increase.

3. **The Chairperson** said that the Committee and the Working Group enjoyed close institutional ties and held a meeting every two years to allow their members to exchange information and set priorities. The Chairpersons and secretariats of the two bodies were in regular contact; they also both met with a number of the Special Rapporteurs who dealt with related themes. Although the mandates of the two bodies differed, it was important to ensure consistency in their work and to make certain that there were no gaps in the protection that they provided. The current session itself provided an example of how the two bodies cooperated: since the Working Group had visited Montenegro in 2014, the Committee had met with the Working Group as part of its preparations for its consideration of the initial report of that State party. One of the future tasks of the Committee would be to clarify its interpretation of article 3 of the Convention, and it would do so in close cooperation with the Working Group.

4. **Mr. Redondo Gómez** (Spain) said that he welcomed the opportunity to learn more about the Committee's work in other areas outside the scope of its consideration of States parties' reports, which could involve some degree of tension. His Government valued the work of the Committee and was gratified to learn that the Committee and the Working Group coordinated their efforts so closely. Details would be appreciated on the Committee's work on reprisals, which was an important topic for coordinated work across all human rights treaty bodies.

5. **The Chairperson** said that the Guidelines against Intimidation or Reprisals had been endorsed at the twenty-seventh meeting of chairpersons of the human rights treaty bodies in June 2015, at which he had presided, and had subsequently been adopted by his Committee. The experience of the older treaty bodies had informed the drafting of the Guidelines, which focused on protecting persons who cooperated with treaty bodies from intimidation and reprisals resulting from acts or omissions of both State and non-State actors. The Guidelines had been designed to avoid the introduction of any cumbersome mechanisms; instead, each treaty body was encouraged to select a focal point on intimidation and reprisals, and those focal points could then coordinate their work. Other United Nations mechanisms that focused on reprisals should also be taken into consideration so that all stakeholders could work on the basis of a common strategy. Although each treaty body would be responsible for adopting the Guidelines separately, it was important to work together to raise the profile of the issue and to launch an effective strategy to counter reprisals.

6. **Mr. Corcuera Cabezut**, supported by **Mr. Huhle**, said that it was important to encourage more States to ratify the Convention and to consider recognizing the competence of the Committee to receive individual complaints and complaints submitted by States parties. Delegates should take the opportunity during the current session of the Human Rights Council to promote ratification of the Convention in order to heighten the effectiveness of the Committee's efforts to help victims of enforced disappearance.

7. **Mr. Yakushiji** said that the Committee had taken note of the goodwill demonstrated by States parties during its consideration of their reports. Most States parties had submitted the follow-up information requested by the Committee in a timely manner.

8. **The Chairperson** said that States parties' timely submission of their reports was essential to the work of the Committee. As a recently established body, the Committee wished to avoid developing a backlog of reports for consideration and maintain the momentum of its work.

The meeting was suspended at 3.40 p.m. and resumed at 3.50 p.m.

Meeting with national human rights institutions

9. **The Chairperson** said that it was important for the Committee and national human rights institutions to draw upon the work done by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) to identify ways in which they could cooperate with one another more effectively. The treaty bodies needed to work with organizations both within and outside the United Nations system, and national human rights institutions were particularly valuable as partners in the field. The Guidelines against Intimidation or Reprisals were posted on the website of the Office of the United Nations High Commissioner for Human Rights and were a reflection of the treaty bodies' concern about the hazards sometimes faced by individuals and institutions that sought to contribute to the work of the treaty bodies. He had been told that, unfortunately, there would not be time at the next meeting of chairpersons of human rights treaty bodies to discuss the issue of cooperation with national human rights institutions. That in no way detracted from the importance of the issue, however, and it would be useful for the treaty bodies to harmonize their approaches to such cooperation. The Committee, for its part, published the reports it received from national human rights institutions on its website.

10. **Mr. El Kam** (International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC)) said that he wished to thank the Committee for its efforts to further incorporate national human rights institutions into the work of the treaty bodies. The Committee and ICC had a joint responsibility to encourage States to ratify the Convention and to establish strong, credible and independent national human rights institutions.

11. ICC welcomed the adoption of the Guidelines and had conducted a survey of national human rights institutions holding an "A" status to find out about their experiences and lessons learned with respect to cooperation with the Committee. The results indicated that such cooperation generally fell into one of four categories: activities to promote ratification of the Convention; support for States parties in the preparation of their initial reports; engagement with the Committee itself; and efforts to implement and promote the Convention.

12. The national human rights institutions of Thailand, Germany and Afghanistan had been working to promote the ratification of the Convention, and the institutions in Cameroon and Nepal had committed to doing so in the future. The institution in

Germany had also been active in organizing workshops as part of the preparation of that State's initial report. The national human rights institution of Morocco would be represented during the consideration of that State's initial report, and he hoped that in the future national human rights institutions would be more closely involved in the Committee's dialogues with States parties.

13. It had been suggested that ICC might wish to establish a forum for dialogue between the Committee and national human rights institutions. As both the Committee and national human rights institutions had a key role to play in the use of early warning procedures, it was important to coordinate efforts in that regard. Other issues on which collaboration would be useful included: serious human rights violations committed by non-State actors, particularly in the Arab region; procedures for closing cases; the role played by forensic and legal medicine in determining the fate of victims of enforced disappearance; coordination mechanisms for use by the various entities working on the issue of enforced disappearance; and follow-up to ensure implementation of the Committee's recommendations and of the Convention. ICC recommended that the Committee should continue to support the establishment of national human rights institutions and help build capacity in the existing institutions of that type; one way of doing so was to involve them in training activities organized by the Office of the United Nations High Commissioner for Human Rights.

14. **The Chairperson** said that the Committee did have a flexible framework in place for dialogue with national human rights institutions. In cases where it was not possible for representatives of those institutions to be present for the consideration of the State party's report, videoconferences were sometimes held. While he understood the great importance that ICC attached to the "A" status granted to national human rights institutions that were in line with the Paris Principles, the Committee had also received very useful information from specialized institutions, provincial human rights institutions in federal States, and national institutions with a "B" status.

15. It was important for the Committee to know what specific obstacles were hindering ratification of the Convention in a given country, and national human rights institutions were well placed to identify those obstacles. One of the aims of General Assembly resolution 68/268 was to reallocate resources in such a way as to strengthen capacity-building efforts. While the Committee members themselves should not participate in training activities, as doing so would compromise their independent status, there were other experts who were very familiar with the Convention who could provide such training. While the Committee was also concerned about clarifying roles and responsibilities in relation to violations carried out by non-State actors, the issue was a complex one.

16. **Mr. Corcuera Cabezut** said that consideration should be given to possible ways of rating all the various local-level human rights institutions that were not granted any status by ICC. It was equally important to ensure international oversight of specialized human rights institutions that dealt with a particular issue, such as discrimination or access to information.

17. **Mr. Yakushiji** said that he would welcome suggestions about ways the Committee and national human rights institutions might collaborate to monitor States parties' dissemination of concluding observations and their follow-up on issues that the Committee had identified as being particularly important or urgent.

18. **Mr. Moussad** (National Human Rights Council, Morocco) said that the involvement of the National Human Rights Council in clarifying hundreds of cases of disappeared persons had made it a key player in Morocco and enabled it to lobby the Government to become more deeply involved in the effort to combat enforced disappearance. The Council had supported the efforts of the Equity and Reconciliation

Commission to have some of its recommendations incorporated into the 2011 Constitution of Morocco. The Council had also called on the Government on numerous occasions since 2010 to ratify all of the core international human rights instruments, including the International Convention for the Protection of All Persons from Enforced Disappearance. Thanks at least in part to the Council's efforts, enforced disappearance had been defined as a criminal offence as such in the 2011 Constitution.

19. **Mr. El Kam** (International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC)) said that it was important for the Committee to insist that enforced disappearance should be made a specific criminal offence under domestic law, particularly in countries which had endured periods in which enforced disappearances had been widespread.

20. **Ms. Rose** (International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC)) said that in the few cases in which special procedures had established follow-up mechanisms, the involvement of national human rights institutions had proven to be extremely beneficial: on the one hand, those institutions were able to provide information about the action being taken in the State party concerned and, on the other hand, the international mechanisms were a useful source of information for national bodies. Consideration should be given to ways of ensuring that national human rights institutions could provide more input for follow-up reporting and received the same information from the Committee as States parties did.

21. **The Chairperson** said that informal contacts with national human rights institutions should be continued. The Committee endeavoured to be as transparent as possible by uploading the reports that it received onto its website, encouraging States parties to seek input for their reports from a broad range of institutions and individuals and making most Committee documents, such as concluding observations and replies to lists of issues, available online. He encouraged national human rights institutions to navigate the website to find the documents which they required.

Meeting with non-governmental organizations and other stakeholders

22. **The Chairperson**, highlighting the cooperation that took place between the Committee and civil society outside the formal framework of sessions of the Committee, invited the representatives of NGOs and relatives of disappeared persons in attendance to take the floor.

23. **Ms. Suazo** (Committee of Relatives of Migrants of Central Honduras) said that her son had disappeared on the migration route from Honduras to the United States and that his body had been found among those of victims of the Cadereyta Jiménez massacre in May 2012. With the help of a variety of NGOs, she had received his remains 27 months after the massacre, following a long struggle in which neither the Honduran Government nor the Mexican Government had assisted her.

24. She would like to ask the Committee to consider developing a general recommendation on migrants and refugees who risked being disappeared while they were in transit. She wished to know more about the Committee's interpretation of "enforced disappearance" under article 2 of the Convention as it related to acts of enforced disappearance committed by organized criminal groups. She would also appreciate more information about the extent to which a State party was responsible for establishing truth and justice. She wondered how article 9, paragraph 1 (c), of the Convention was applied in cases in which a disappeared person was a national of a State party which had not recognized the competence of the Committee to receive and consider communications under articles 31 and 32.

25. The Committee of Relatives of Migrants of Central Honduras advocated the establishment of a transnational mechanism for conducting searches and investigations, for ensuring that redress was forthcoming and for providing care, support, and assistance to victims and their families. Her organization wished to urge the Committee to create such a mechanism in order to give full effect to article 15 of the Convention.

26. Compliance by States parties with article 16 of the Convention was crucial to saving migrants' lives, yet migration authorities often flouted the principle of *non-refoulement* by ignoring migrants' claims that they were at risk of enforced disappearance. Application of article 17 was also urgent, firstly, because States of origin required up-to-date records on disappeared migrants and missing persons in order to facilitate the search for them and, secondly, because all States, including those with federal systems, needed to maintain a centralized registry of all persons who were deprived of liberty in their territories. Many families had difficulty obtaining entry visas to countries where they wanted to search for their loved ones. Her organization wished to urge the Committee to appeal to all States parties to facilitate the processing of such visas and to remind States parties of their responsibility to provide international protection to migrants who were at risk of enforced disappearance.

27. **The Chairperson** recalled that migrants had been a priority issue during the examination of the report of Mexico in February 2015. Exceptionally, given the scale of disappearances in Mexico, the Committee had asked the State party a series of questions on the specific issue of disappearances committed by non-State actors and was expecting to receive replies to them by February 2016. In parallel, the Committee was engaging in informal consultations with the Committee on Migrant Workers and others in order to determine how the treaty bodies could best address migration-related issues. The Committee's initial response was predicated on the principle of *non-refoulement*, but it could perhaps go further by invoking the principle of the joint responsibility of countries of origin and host countries, as set forth in the case law of the European Court of Human Rights. The Committee could pursue its analysis of possible approaches for dealing with enforced disappearances committed by non-State actors, including organized crime, on the basis of article 3 of the Convention. It could also refer to reports received from NGOs and national human rights institutions in its concluding observations, as well as having recourse to urgent action procedures under article 33 and reporting systematic violations to the General Assembly under article 34.

28. **Mr. Huhle** said that many of the questions asked by Ms. Suazo had been taken up during the Committee's recent dialogue with Mexico, at which the Committee had recommended the establishment of a search mechanism that could function in both countries of origin and host countries. The challenge, however, was that only a few countries in the subregion had ratified the Convention and, although Mexico had done so, many host countries, such as the United States, were not party to the Convention. During a recent visit to the region, he had been pleased to note how closely Central American countries and Mexico were coordinating their efforts to deal with migration issues, although that cooperation could still be strengthened further.

29. **Mr. Hazan** said that arranging for cross-border access to information was a particular challenge, as it required such close coordination between the States concerned. It would be helpful for civil society organizations and victims' families to provide information on the mechanisms existing within individual countries and to lobby for the ratification of the Convention within their regions. The more countries that acceded to the Convention, the more holistic the Committee's approach to enforced disappearance could become.

30. **Mr. Huhle** said that in April he had spoken with the Deputy Minister of Justice of Honduras, who had promised that the report of Honduras would be submitted by the end of 2015.

The discussion covered in the summary record ended at 4.55 p.m.